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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

IDF 1761 (4000-06400)

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on 6/12/2006Signature Edith ShekTyped or printed name Edith S. Shek

Application Number

10/086,099

Filed

February 28, 2002

First Named Inventor

Matthew Barrow

Art Unit

2157

Examiner

El Hadji Malick Sall

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the



applicant/inventor.



assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)



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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of 1 forms are submitted.

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REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW

The appealed Claims 1-12 are listed in the response filed April 12, 2006.

The grounds for rejection are stated in the office actions of September 21, 2005 and February 23, 2006 which are essentially identical.

The Applicant's arguments are contained in the Remarks section of a response filed December 5, 2005. A shortened version is provided below.

Claims 1-12 have been rejected as anticipated by the Bhatia et al. US Patent 6,118,768. The Applicants traverse these rejections.

Claim 1

As to the first step of claim 1, the Examiner asserts that at col. 26, lines 28-32, Bhatia discloses the LAN modem can be remotely configured and further asserts that it is inherent that a configuration file is received in the LAN modem or "telecommunications hub".

Bhatia teaches initial self-configuration of a modem. Bhatia mentions a "configuration file", but it is not a file of configuration parameters and it is not downloaded by the modem to configure itself. As covered by Bhatia claim 1 the "configuration file" is actually a user interface application sent from the modem, the device to be configured, to a host device to allow a user at the host device to interactively input information to be used by the modem to configure itself. Bhatia does not teach receiving a configuration by the device which is to have its configuration file, i.e. a file of operating parameters, updated, i.e. changed.

As to the second step of claim 1, the Examiner asserts that at col. 24, lines 59-64, Bhatia teaches that a user at the workstation will interactively enter network parameters and other required data to properly configure the LAN modem.

The second step of claim 1 requires identifying parameters in the new configuration file which are different than existing parameters stored in the customer premises hub. The second step is performed after a configuration file, i.e. a complete set of parameters, has been received. The contents of that new file are compared to

the old or existing file to see if they are different. Bhatia only teaches entering individual parameters that the modem uses to configure itself. Bhatia teaches nothing about comparing such parameters to ones that are currently stored in the modem.

As to the third step of claim 1, the Examiner asserts that at col. 24, lines 55-67, Bhatia teaches dynamically constructing a default web page through which the user can choose to configure the LAN modem.

The third step of claim 1 is checking the parameters that are different (as determined in step 2) to determine whether they can be changed dynamically (as opposed to requiring a reboot). Bhatia provides no teaching or suggestion concerning the possibility of changing configuration parameters dynamically, i.e. without rebooting. Bhatia cannot teach means or a method for checking whether parameters can be dynamically changed when Bhatia does not even recognize the possibility of doing so.

As to the fourth step of claim 1, the Examiner asserts that at col. 17, lines 49-57, Bhatia teaches that if the LAN modem has not yet been initially configured, Configuration Manager 401 updates certain portions of local database 416 with data representing the present configuration of the LAN modem and its users.

The fourth step is dynamically changing the parameters, if in the third step it was determined that all the parameters could be dynamically changed, i.e. without rebooting. Bhatia teaches nothing about dynamically changing parameters and therefore could not teach performing dynamic changing of parameters.

Bhatia clearly fails to teach or suggest any of the steps of claim 1. As a result, the Applicants submit that claim 1 is clearly patentable over the Bhatia reference. Since claims 2-8 depend from claim 1, Applicants submit that claims 2-8 are likewise patentable over the Bhatia reference.

Claim 9:

As to the third limitation of claim 9, the Examiner asserts that in Fig. 3 Bhatia shows the entire third limitation.

The third limitation includes a plurality of modules, each storing its relevant configuration file parameters and each having a check function and an update function.

While it may be presumed that the CPU of Bhatia contains a number of functional program modules that operate with configuration parameters, Bhatia does not teach a configuration file as such, i.e. a configuration file containing all the configuration parameters. Bhatia clearly does not teach that each functional module stores configuration file parameters which affect its parameters. Bhatia clearly does not teach that each functional module has a check function. Bhatia clearly does not teach that each functional module has an update function.

As to the fourth limitation of claim 9, the Examiner asserts that in Fig. 1, Fig. 4B, and col. 18, lines 3-7, Bhatia discloses various portions of this information, such as the serial number, product name, and private IP address range are initially stored in the EPROM (within EPROM and watchdog time 380 shown in Fig. 3) and after power-on reset has occurred, copied into the flash memory.

The fourth limitation requires a configuration update module adapted to receive a configuration file over the wide area network. Bhatia does not teach a configuration update module, especially one adapted to receive a configuration file over the WAN. The EPROM is part of modem itself and the data is read from it without use of any network. As noted above, Bhatia does not discuss a configuration file, or receiving a configuration file from any source. It only discusses receiving manually input parameters and configuring the modem internally. The fourth limitation requires that the update module call the check function and the update function in each functional module. Since the functional modules of Bhatia do not have the check function and the update function, it would not be possible for a configuration update module in Bhatia to call such functions, even if Bhatia had a configuration update module, which it does not.

In view of the substantial elements of claim 9 that are not shown or suggested by Bhatia, the Applicants submit that claim 9 is patentable over the Bhatia reference.

Claim 10:

As to the first limitation of claim 10, the Examiner asserts that at col. 12, lines 63-65, Bhatia discloses LAN modem between all the workstations connected to the LAN modem and associated remote servers.

The first limitation is a configuration server. The cited portion of Bhatia merely discusses addressing methods that allow the workstations of the LAN to communicate with remote servers, e.g. a Google server. Since Bhatia does not teach configuration files, or downloading configuration files from a file server, it cannot and does not teach a configuration server.

As to the second limitation of claim 10, the Examiner asserts that at col. 26, lines 28-32, Bhatia teaches that the modem can be remotely configured and that it is inherent that a configuration file is received in the modem.

The second limitation includes means for receiving a new configuration file from the configuration server. The cited portion of Bhatia teaches only that the LAN modem "can be remotely configured via a networked connection". Bhatia does not teach or suggest receiving a configuration file at all, much less from a remote location. A teaching is not inherent unless it necessarily exists in the disclosed structure or method. Bhatia teaches only one way to configure the LAN modem and that is by manual entry of parameters by the user using a workstation connected to the LAN. (see col. 4, lines 45-51; col. 5, lines 4-10; col. 7, lines 22-25; col. 24, lines 14-16; col. 24, line 55 to col. 25, line 5) The LAN modem actually configures itself by receiving individual parameters and arguably could build a configuration file, but never specifically says it does create "a", i.e. one, configuration file with all relevant parameters needed to operate all the various applications. Bhatia never teaches receiving such a file, but only teaches collecting various parameters that would normally be considered part of a configuration file.

As to the third limitation of claim 10, the Examiner asserts that at col. 6, line 62 to col. 7, line 5, Bhatia teaches comparing the entire executable code stored in DRAM, on a location by location basis with that stored in flash memory.

The third limitation is means for comparing the configuration parameters then controlling operation of the hub to parameters contained in a new configuration file and identifying those parameters that are different. Configuration parameters and executable code are two different things. The third limitation does not include changing any code, but only identifying parameters that are different, and therefore need to be changed.

As to the fourth limitation of claim 10, the Examiner asserts that at col. 63, lines 44-46, Bhatia teaches automatically adapting a value of predefined network parameters associated with the network communication device.

The fourth limitation is means for identifying configuration parameters that can be changed dynamically, i.e. without rebooting. Bhatia provides no teaching concerning the differences between configuration parameters that can be changed dynamically and those that require rebooting.

As to the fifth limitation of claim 10, the Examiner asserts that at col. 17, lines 49-57, Bhatia teaches that if the LAN modem has not yet been initially configured, Configuration Manager 401 updates certain portions of local database 416 with data representing the present configuration of the LAN modem and its users.

The fifth limitation is means for dynamically changing the parameters, if in the fourth limitation it was determined that all the parameters could be dynamically changed, i.e. without rebooting. Bhatia teaches nothing about dynamically changing parameters and therefore could not teach performing dynamic changing of parameters.

The Applicants submit that claim 10 is clearly patentable over the Bhatia reference. Since claims 11 and 12 depend from claim 10, Applicants submit that these claims are likewise patentable over the Bhatia reference.

Respectfully submitted,
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